

# HB0267



## 99TH GENERAL ASSEMBLY

### State of Illinois

2015 and 2016

HB0267

by Rep. Natalie A. Manley

#### SYNOPSIS AS INTRODUCED:

35 ILCS 5/405

Amends the Illinois Income Tax Act. Provides that each beneficiary, other than an individual, of a trust or estate shall be allowed a deduction in the taxable year in which the final taxable year of the trust or estate ends. Provides that the deduction shall be treated as a carryover deduction. Contains provisions concerning the number of years in which the beneficiary may carry forward the deduction.

LRB099 04119 HLH 24138 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning revenue.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Illinois Income Tax Act is amended by  
5 changing Section 405 as follows:

6 (35 ILCS 5/405)

7 Sec. 405. Carryovers in certain transactions ~~acquisitions~~.

8 (a) In the case of the acquisition of assets of a  
9 corporation by another corporation described in Section 381(a)  
10 of the Internal Revenue Code, the acquiring corporation shall  
11 succeed to and take into account, as of the close of the day of  
12 distribution or transfer, all Article 2 credits and net losses  
13 under Section 207 of the corporation from which the assets were  
14 acquired.

15 (b) In the case of the acquisition of assets of a  
16 partnership by another partnership in a transaction in which  
17 the acquiring partnership is considered to be a continuation of  
18 the partnership from which the assets were acquired under the  
19 provisions of Section 708 of the Internal Revenue Code and any  
20 regulations promulgated under that Section, the acquiring  
21 partnership shall succeed to and take into account, as of the  
22 close of the day of distribution or transfer, all Article 2  
23 credits and net losses under Section 207 of the partnership

1 from which the assets were acquired.

2 (b-5) No limitation under Section 382 of the Internal  
3 Revenue Code or the separate return limitation year regulations  
4 promulgated under Section 1502 of the Internal Revenue Code  
5 shall apply to the carryover of any Article 2 credit or net  
6 loss allowable under Section 207.

7 (c) The provisions of Public Act 91-541 ~~this amendatory Act~~  
8 ~~of the 91st General Assembly~~ shall apply to all acquisitions  
9 occurring in taxable years ending on or after December 31,  
10 1986; provided that if a taxpayer's Illinois income tax  
11 liability for any taxable year, as assessed under Section 903  
12 prior to January 1, 1999, was computed without taking into  
13 account all of the Article 2 credits and net losses under  
14 Section 207 as allowed by this Section:

15 (1) no refund shall be payable to the taxpayer for that  
16 taxable year as the result of allowing any portion of the  
17 Article 2 credits or net losses under Section 207 that were  
18 not taken into account in computing the tax assessed prior  
19 to January 1, 1999;

20 (2) any deficiency which has not been paid may be  
21 reduced (but not below zero) by the allowance of some or  
22 all of the Article 2 credits or net losses under Section  
23 207 that were not taken into account in computing the tax  
24 assessed prior to January 1, 1999; and

25 (3) in the case of any Article 2 credit or net loss  
26 under Section 207 that, pursuant to this subsection (c),

1           could not be taken into account either in computing the tax  
2           assessed prior to January 1, 1999 for a taxable year or in  
3           reducing a deficiency for that taxable year under paragraph  
4           (2) of subsection (c), the allowance of such credit or loss  
5           in any other taxable year shall not be denied on the  
6           grounds that such credit or loss should properly have been  
7           claimed in that taxable year under subsection (a) or (b).

8           (d) On the termination of a trust or estate that is  
9           entitled to a net loss carryover deduction under Section 207 of  
10           this Act for its final taxable year that is in excess of its  
11           taxable income (before the carryover deduction) for that  
12           taxable year, each beneficiary (other than an individual) of  
13           the trust or estate shall be allowed a deduction in its taxable  
14           year in which the final taxable year of the trust or estate  
15           ends, equal to the portion of that excess carryover deduction  
16           allocable to that beneficiary under the principles of Section  
17           642(h) of the Internal Revenue Code. The deduction allowed  
18           under this subsection (d) shall be treated as a carryover  
19           deduction of the beneficiary under Section 207 of this Act as  
20           if incurred by the beneficiary, except that the deduction may  
21           be carried forward by the beneficiary only for the maximum  
22           number of taxable years for which the trust or estate would  
23           have been allowed to carry the loss forward under Section 207  
24           of this Act, minus the number of taxable years (including the  
25           year of termination) to which the trust or estate had carried  
26           the deduction, with the taxable year in which the beneficiary

1 is first allowed a deduction under this paragraph counting as a  
2 carryforward year of the beneficiary. This subsection (d) shall  
3 apply to trusts or estates terminating after December 31, 2015,  
4 and is exempt from the provisions of Section 250 of this Act.

5 (Source: P.A. 91-541, eff. 8-13-99; 91-913, eff. 1-1-01.)